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COPY MAILED

LETTER **AUG 23 2002**

OFFICE OF PETITIONS

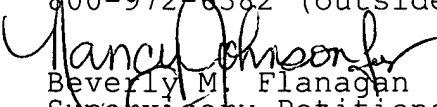
In re Application of :
Kent Henry, Mark Watson, Shanen :
Onken-Shaw, Christopher McKee, :
Craig McKee, Ronny Harris, Neal :
Syverson, Zachary Gray, Stanley :
Smith and Todd Hochwitz :
Application No. 10/072,016 :
Filed: February 6, 2002 :
Title: Multi-parameter Monitoring :
Tool Assembly :

Dear Mr. Hochwitz:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

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In re Application of :
Kent Henry, Mark Watson, :
Shanen Onken-Shaw, : DECISION ACCORDING STATUS
Christopher McKee, Craig McKee, : UNDER 37 C.F.R. §1.47(a)
Ronny Harris, Neal Syverson, :
Zachary Gray, Stanley Smith and :
Todd Hochwitz :
Application No. 10/072,016 :
Filed: February 6, 2002 :
Title: Multi-parameter Monitoring :
Tool Assembly :

This is in response to the petition, filed June 19, 2002, under
37 C.F.R. §1.47(a)¹.

The petition is **GRANTED**.

The above-identified application was filed on February 6, 2002, with a partially executed declaration. Kent Henry, Mark Watson, Shanen Onken-Shaw, Christopher McKee, Craig McKee, Ronny Harris, Neal Syverson, Zachary Gray, Stanley Smith and Todd Hochwitz were named as joint inventors. However, the declaration was missing the signatures of inventors Craig McKee, Stanley Smith and Todd Hochwitz. Accordingly, on March 7, 2002, applicants were mailed a "Notice to File Missing Parts of Application," requiring an oath or declaration signed by the three inventors and a surcharge for its late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under §1.136(a).

In response, rule 47 applicants filed a declaration executed by previously nonsigning joint inventors Smith and McKee on behalf of themselves and on behalf of nonsigning inventor Hochwitz, with the instant petition (and fee); paid the surcharge for late filing under 1.16(e); and requested (and submitted payment for) a two-month extension of time to make timely the response. Rule 47 applicants maintain that status under §1.47(a) is proper because inventor Hochwitz has refused to join in the application.

In support thereof, applicants submitted a declaration of patent attorney Kenneth Johnson describing steps undertaken to have the

¹ A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (oath or declaration, and specification, claims, drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

refusing inventor review the application and execute the declaration. Further, documentary evidence, including copies of cover letters transmitting the application papers to inventor Hochwitz by registered mail at his last known address and E-mail communications regarding joining in the application, was submitted. Rule 47 applicants state, and provide documentary evidence that, inventor Hochwitz has refused to claim the mailing of the application papers. Further, the E-mail communications include one in which inventor Hochwitz states that "I have several other commitments that do not afford me the ability to address the proper filing of the patents in a timely fashion. So I respectfully must decline the opportunity to work with In-Situ at this time."

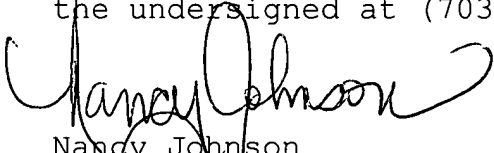
Having considered the evidence, it is concluded that applicants have shown that inventor Hochwitz has refused to join in the application. The declarations filed February 6, 2002 and June 19, 2002, and the petition have been reviewed and found in compliance with 37 C.F.R. §§1.63 and 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy